

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re

Chapter 11

Contemporary Management Services, LLC, *et al.*,

Case No. 23-22459 (SHL)

Debtors.

(Joint Administration)

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**STATEMENT IN FURTHERNACE OF MOTION OF UNITED STATES
TRUSTEE FOR APPOINTMENT OF A PATIENT CARE OMBUDSMAN
UNDER 11 U.S.C. §§ 101(27A) and 333**

**TO THE HONORABLE SEAN H. LANE,
UNITED STATES BANKRUPTCY JUDGE:**

William K. Harrington, United States Trustee for Region 2 (the “United States Trustee”), hereby files this statement in furtherance of the Motion for the Appointment of a Patient Care Ombudsman Pursuant to 11 U.S.C. §§ 101(27A) and 333(a)(1), ECF Docket No. 13 (the “Motion”) and respectfully alleges as follows:

1. On September 7, 2023, this Court held a status conference in this case. At that conference the Court stated that in connection with the Motion it would adopt the reasoning set forth in the September 6, 2023, Decision Regarding the Appointment of a Patient Care Ombudsman rendered by the Honorable Michael E. Wiles in the case of Parkchester Oral and Maxillofacial Surgery Associates, P.C., 23-11015, ECF Docket No. 42. The Court then directed/invited the United States Trustee to file an additional pleading regarding the facts of this case.

2. In furtherance of the Court's request the United States Trustee notes that the declaration of Dale G. Goldschlag, DDS (the "Declaration") filed in opposition to the Motion provides that the Debtors "do not get involved with the treatment the independent doctors and their corporations offer in the facilities they provide" and that "because the Debtors do not actually offer patient care or services, and that independent contractor dentist offer only consultation and outpatient case (as opposed to inpatient or continued day-to-day care), there is little to no dependence on the facility by the independent contractor dentists' patients." Declaration at ¶¶ 11 and 14, ECF Docket No. 44-1.

3. The Declaration, however, does not deny that dental implant surgeries and other dental services take place at the Debtors' facilities. In fact, the Debtors' Objection to the Appointment of a Patient Care Ombudsman (the "Objection") provides that Dale D. Goldschlag D.D.S. P.C. "is a professional corporation through which a New York based dental practice is operated." Objection at ¶ 3, ECF Docket No. 44. Furthermore, as set forth in the Motion and on the Debtors' website:

- The dental implant surgical process takes 6 to 8 months and is described as follows:

For most patients, the placement of **dental implants** involves two surgical procedures. First, implants are placed within your jawbone. For the first four to six months following surgery, the implants are beneath the surface of the gums gradually bonding with the jawbone. You should be able to wear temporary dentures and eat a soft diet during this time. At the same time, your restorative dentist designs the final bridgework or denture, which will ultimately improve both function and aesthetics.

After the implant has bonded to the jawbone, the second phase begins. Your oral surgeon will uncover the implants and attach a small healing collar. Then, the doctors will be able to begin making your new teeth. An impression must be taken. Then posts or attachments can be connected to the implants. The teeth replacements are then made over the posts or attachments. The entire procedure usually takes six to eight months. Most patients do not experience any disruption in their daily life.

www.contemporarydentalimplantcentre.com/services/dental-implants/

- In connection with providing implants, other procedures are performed at the Debtor's facilities such as major and minor bone grafting, and nerve repositioning surgery.

www.contemporarydentalimplantcentre.com/services/dental-implants/bone-grafting/

- Major bone grafting is routinely performed in an operating room and requires a hospital stay. Id. Nerve repositioning surgeries are performed in the out-office surgical suite under IV sedation or general anesthesia. Id.

4. Accordingly, although the Declaration provides the Debtors are not performing dental surgery at their offices, the website makes it clear dental surgery, that takes 6 to 8 months to complete, including Nerve repositioning surgeries under IV sedation or general anesthesia, is being performed at the Debtors' facilities.

5. Furthermore, the Declaration provides that "[t]he Debtors are not a named party in any recent or pending lawsuits on almost ten (10) years." Declaration at ¶ 11. Such a fact, however, is backward looking and does not consider if the Debtors, now in chapter 11, will cut corners in connection with the services, products, and facilities they provide to dentists, including dentist that operate at their locations. A Patient Care Ombudsman can review the Debtors practices to ensure the Debtors have not, and will not, economize on the services, products, and facilities they provide.

WHEREFORE, the United States Trustee respectfully states that the Debtors are a Health Care Business as defined under the Bankruptcy Code and that the Court should order the United States Trustee to appoint an ombudsman in accordance with 11 U.S.C. Section 333 or render a determination that such an appointment is not necessary under the specific circumstances of the case.

Dated: New York, New York
September 12, 2023

WILLIAM K. HARRINGTON
UNITED STATES TRUSTEE, Region 2

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